

08/03/2008

Docket No.: 4578-0116PUS1  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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In re Patent Application of:  
Jun OKI et al.

Application No.: 10/568,779

Confirmation No.: 5253

Filed: February 21, 2006

Art Unit: 1621

For: ESTERIFICATION PRODUCT AND  
COSMETICS

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Examiner: D. D. Carr

**AMENDMENT AFTER FINAL ACTION UNDER 37 C.F.R. 1.116**

MS AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**INTRODUCTORY COMMENTS**

In response to the Office Action dated March 25, 2008, finally rejecting claims 1-9, please amend the above-identified U.S. patent application as follows:

**Amendments to the Claims** are reflected in the listing of claims which begins on page 2 of this paper.

**Remarks/Arguments** begin on page 3 of this paper.

### **REMARKS**

#### **Status of the Claims**

Claims 10 and 11 are currently pending in the application. Claims 1-9 stand rejected. Claims 1-9 have been cancelled without prejudice or disclaimer. New claims 10 and 11 have been added. No new matter has been added by way of the present amendments. Specifically, new claim 10 is supported by the specification at, for instance, Formulation Example 3 at pages 16-17, page 4, lines 6-12, page 5, lines 8-9, and page 8, lines 2-3. Additionally, no new issues are presented by way of the present submission. For instance, claims 10 and 11 find support in previously pending and examined claims 1-4 and 6. In the event that the present submission does not place the application into condition for allowance, entry thereof is respectfully requested as placing the application into a better form for appeal. Reconsideration is respectfully requested.

#### **Rejections Under 35 U.S.C. § 102(b)**

Claims 1-3 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Tomokazu et al., JP 08/217723 (hereinafter referred to as “Tomokazu et al.”). (See, Office Action of March 25, 2008, at pages 2-3, hereinafter, “Office Action”). It is noted that although the Office Action only rejections claims 1-3 at page 2, it is presumed that the Examiner actually meant to reject all of the pending claims 1-9, since the Office Action Summary states that all pending claims are rejected. Clarification is requested in the next communication from the Office. Claims 1-3 have been cancelled herein without prejudice or disclaimer, thus obviating the present rejection. However, in an effort to be fully responsive to the Office Action, Applicants provide the

**AMENDMENTS TO THE CLAIMS**

1-9. (Canceled)

10. (New) A lipstick comprising a fatty acid ester of polyglycerol,  
wherein the polyglycerol has an average degree of polymerization of from 6 to 15 based  
on the hydroxyl value thereof,

wherein the fatty acid is at least one branched fatty acid selected from branched fatty  
acids having 8 to 22 carbon atoms,

wherein said fatty acid ester of polyglycerol has a degree of esterification of from 60% to  
90%, and

wherein said fatty acid ester of polyglycerol is formulated in a lipstick.

11. (New) The lipstick according to claim 1, wherein the fatty acid ester of polyglycerol  
has an acid value of 3.0 or less.